IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :07-03-2002

CORAM

THE HONOURABLE MR.JUSTICE A.RAMAMURTHI

C.M.A.NO.117 OF 2001

1.Kumaravel
2.Chinnathayi
3.Saravanan
4.Kumadavalli ... Petitioners

-vs-

1.Chinnathambi
2.Dhanasekaran
3.District Collector,
Dharmapuri District,
Dharmapuri.
4.The Tahsildar,
Harur,
Dharmapuri District ... Respondents

For appellants : Mr.C.Ramesh
For respondents 1 &2: Mr.V.Krishnan
For respondents 3 &4: No appearance

Appeal against the order and decretal order dated 17.09.1999 made in I.A.No.1 of 1998 in A.S.NO.17 of 1997 on the file of Subordinate Judge, Krishnagiri.

: J U D G M E N T

The appellants preferred this appeal aggrieved against the order dated 17.09.1999 passed in I.A.NO.1 of 1998 in A.S.No.17 of 1997 on the file of the Subordinate Judge, Krishnagiri.

2. The appellants filed I.A.NO.1 of 1998 on the file of the SubCourt, Krishnagiri, for restoration of A.S.No.17 of 1997, which was dismissed for default on 24.02.1998. It is stated that on 24.02.1998, the first appellant was suffering from stomach ache and as such, he could not appear before the Court. However, the respondents opposed the application and contended that the first appellant was aged about 32 years and he was hale and healthy and even on earlier occasion,

the appeal was dismissed for default.

3. The learned Subordinate Judge, after hearing the parties, dismissed the application and aggrieved against the same, this appeal is filed.

4. Heard the learned counsel on either side.

5. Learned counsel for the appellants contended that an opportunity can be given to the appellants to prosecute the appeal on merits. However, learned counsel for the respondents stated that even on an earlier occasion, the appeal was dismissed for default and without any costs, it was restored. Learned counsel for the appellants further stated that the advocates at Krishnagiri were also boycotting the Courts in support of forming the Court at Dharmapuri.

6. Whatever it may be, already, an opportunity was given to the appellants to prosecute the appeal and they have not availed the same. However, in the interests of justice, one more opportunity can be given to the appellants to prosecute the appeal. The prejudice caused to the respondents can be compensated in terms of money.

7. Hence, this C.M.A will be allowed on payment of costs of Rs.1,00 0/- to the counsel for the respondents 1 and 2 within a period of four weeks from today, failing which the appeal shall stand dismissed.

Indes: Yes/No
07-03-2002
dixit

To :

The Subordinate Judge,
Krishnagiri.

A.RAMAMURTHI, J.
C.M.A.117 OF 2001
07-03-2002